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UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON

BOARD OF TRUSTEES OF THE  
WESTERN METAL INDUSTRY  
PENSION FUND,

Plaintiff,

v.

ARTIC MACHINE, INC., UBI NO.  
602065675,

Defendant.

NO.

COMPLAINT FOR COLLECTION OF  
EMPLOYER WITHDRAWAL  
LIABILITY

For its complaint, plaintiff alleges as follows:

**I. PARTIES, JURISDICTION AND VENUE**

1. Plaintiff is the Board of Trustees of the Western Metal Industry Pension Fund (“Trust”). The Trust is an “employee pension benefit plan” as defined in Section 3(2) of the Employee Retirement Income Security Act of 1974, as amended (ERISA), 29 U.S.C. § 1002(2), and a “multiemployer plan” as defined in Section 4001(a)(3) of ERISA, 29 U.S.C. § 1301(a)(3). Plaintiff is the “plan sponsor” of the Trust, as defined in Section 4001(a)(10) of ERISA, 29 U.S.C. § 1301(a)(10).

COMPLAINT FOR COLLECTION OF EMPLOYER  
WITHDRAWAL LIABILITY - 1



1           11. As a result of its complete withdrawal, the Trust determined that Artic owes  
2 \$330,240.00 in withdrawal liability.

3           12. Pursuant to ERISA Section 4219(c)(1)(B), 29 U.S.C. § 1399(c)(1)(B), Artic  
4 is required to pay its withdrawal liability in eighty quarterly installment payments.

5           13. On December 14, 2016, the Trust notified Artic in writing of its withdrawal  
6 liability and demanded payment in accordance with the installment schedule. The first  
7 payment was due April 1, 2017.

8           14. Artic did not make its first payment due on April 1, 2017. On May 11, 2017,  
9 the Trust notified the employer that it had 60 days to cure its failure to make its initial  
10 withdrawal liability payment and that failure to do so would result in the declaration of a  
11 default.

12           14. On May 25, 2017, Artic attempted to initiate arbitration in accordance with  
13 ERISA § 4221(a); 29 U.S.C. § 1401(a), but failed to file its notice with the American  
14 Arbitration Association as required by the Trust's Withdrawal Liability Procedures.

15           15. On August 18, 2017, the Trust sent a letter to Artic advising the employer  
16 that it had not initiated arbitration in accordance with the Trust's Withdrawal Liability  
17 Procedures. The Trust gave the employer an additional 30 days to initiate arbitration in  
18 accordance with the Trust's Withdrawal Liability Procedures.

19           16. More than sixty days have passed since the Trust's May 25, 2017 letter.  
20 Artic failed to make the required payment and is accordingly in default pursuant to Section  
21 4219(c)(5) of ERISA, 29 U.S.C. § 1399(c)(5).

22           17. Artic did not initiate arbitration within the 30 day extension provided by the

1 Trust in its August 18, 2017 letter.

2 17. Pursuant to Section 4221(b)(1) or ERISA, 29 U.S.C. § 1401(b)(1), Artic  
3 owes the Trust immediate payment of \$330,240.00 in withdrawal liability.

4 18. Under the terms of the Trust Agreement and Sections 4301(b), 515, and  
5 502(g)(2) of ERISA Artic is obligated to pay liquidated damages, interest, reasonable  
6 attorney's fees, and costs and expenses of suit to be determined upon motions at trial. 29  
7 U.S.C. §§ 1451(b), 1145, 1132(g)(2).

8 WHEREFORE, Plaintiff Western Metal Industry Pension Fund prays for judgment:

9 (a) Requiring Artic Machine, Inc. to pay the full amount of \$330,240.00 in  
10 withdrawal liability to the Trust, calculated in accordance with subsection  
11 4225(b) of ERISA,

12 (b) For attorney fees and costs, pursuant to Section 502(g) of ERISA, 29 U.S.C.  
13 § 1132(g); and

14 (c) For such other and further relief as this Court deems just and equitable.

15 DATED this 6<sup>th</sup> day of December, 2018.

16 s/ Douglas M. Lash

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22